IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

(258) **CWP-27562-2017**
Date of Decision: May 09, 2019

Jasbir Singh .. **Petitioner**

Versus

State of Punjab and another .. **Respondents**

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. S.S. Salar, Advocate, for the petitioner.

Mr. Mehardeep Singh, Addl. A.G., Punjab.

HARSIMRAN SINGH SETHI, J.(ORAL)

In the present writ petition, the grievance which is being raised by the petitioner is that as retiral amount has been released to the petitioner after undue delay after his retirement, he is entitled for interest keeping in view the settled principle of law settled by full Bench of this Court in ***A.S. Randhawa Vs. State of Punjab, 1997(3) S.C.T. 468*** **.**

Learned counsel for the petitioner argues that the petitioner retired on 31.01.2017 and on the said date, the petitioner was entitled for the release of his retiral benefits as there was no criminal or departmental proceeding pending which would have entitle the respondents to withhold his pensionary benefits. Learned counsel for the petitioner states that vide order dated 14.02.2017 (Annexure P-2), the respondents sanctioned a sum of Rs.10 lacs on account of DCRG (Death-cum-Retirement Gratuity). Learned counsel for the petitioner argues that despite the fact that the gratuity was sanctioned on 14.02.2017, but the same was not released to the petitioner without any valid justification. As the gratuity was not released in pursuance to the sanction order dated 14.02.2017, again on 12.07.2017, another order for sanction of the gratuity afresh amounting to Rs.10 lacs was passed in favour of the petitioner and ultimately the gratuity was released to the petitioner by the respondents on 15.11.2017.

Learned counsel for the petitioner argues that once the amount of gratuity was sanctioned in February, 2017, the petitioner was entitled for the release of the same immediately but as the same has been delayed without any valid justification, petitioner is entitled for interest on the same.

Upon notice of motion, the respondents have filed the reply.

In the reply, it has been submitted by the respondents that though the gratuity was sanctioned by the department on 14.02.2017 and was sent to the District Treasury for disbursement, the said bill was returned by the District Treasury Officer, Punjab with the objection that the bill be sent in the next financial year. Keeping in view the said objection, the gratuity was sanctioned by the respondents on 12.07.2017 and sent to the District Treasury Officer, which was ultimately released to the petitioner on 15.11.2017. The relevant paragraph of the reply is as under:-

> "*3. That the petitioner was retired from service on dated 31.01.2017. The pension case of the petitioner has been prepared and sent to office of the Accountant General, (A&E), Punjab, Chandigarh vide No.51120-121/E-4, dated 02.12.2016, well before the date of his retirement, accordingly, the pension @ 13,880/- R.S. P.M has been approved vide dated 21.12.2016. However, the DCRG amounting to Rs.10,00,000/- have been approved by the office of the Accountant General, (A&E), Punjab, Chandigarh vide dated 21.12.2016, which has been sanctioned by this office vide dated 14.02.2017 and sent*

> *to the District Treasury Officer, Punjab, Chandigarh for disbursement accordingly. The bill for the same was returned by office of the District Treasury Officer, Punjab, Chandigarh with the objection Bill be sent in the next financial year to pass and original sanction of DCRG be attached with bill. Hence, the revised sanction of the DCRG amounting to Rs.10,00,000/- has been ordered vide this office No. 28413-17/E-4 dated 12.07.2017 and the same was again sent to the District Treasury Officer, Punjab, Chandigarh for further necessary action, which has been disbursed accordingly."*

Hence, learned counsel for the respondents prays that the petitioner is not entitled for any interest on the said amount.

I have heard learned counsel for the parties and gone through the record with their able assistance.

Petitioner, who retired on 31.01.2017, was entitled for the release of the pensionary benefits immediately/within a reasonable time. Even the amount of gratuity was sanctioned on 14.02.2017, but the same was not released by the District Treasury Officer on the ground that bill should be sent in the next financial year. No valid justification has come as to why the said objection was taken, once the petitioner had retired from service on 31.01.2017 and even the payment order for the gratuity had already been approved by the competent authority on 14.02.2017, still the said payment was not released by the Treasury.

From the pleadings, it transpires that no valid justification is coming forth for withholding the gratuity despite the fact that same was sanctioned nine months prior to its disbursement. It is a settled principle of law settled by the full Bench of this Court in ***A.S. Randhawa's case (supra)*** that where the pensionary benefits of an employee has been delayed without any valid justification, the employee will be entitled for the interest. The relevant portion of the said judgment is as under:-

> "*Since a Government employee on his retirement becomes immediately entitled to pension and other benefits in terms of the Pension Rules, a duty is simultaneously cast on the State to ensure the disbursement of pension and other benefits to the retirer in proper time. As to what is proper time will depend on the facts and circumstances of each case but normally it would not exceed two months from the date of retirement which time limit has been laid down by the Apex Court in M. Padmanbhan Nair's case (supra). If the State commits any default in the performance of its duty thereby denying to the retiree the benefit of the immediate use of his money, there is no gainsaying the fact that he gets a right to be compensated and, in our opinion, the only way to compensate him is to pay him interest for the period of delay on the amount as was due to him on the date of his retirement.*"

Not only this, a Coordinate Bench of this Court while deciding ***J.S. Cheema Vs. State of Haryana and others, 2014 (1) S.C.T. 782***, has held that in case an amount for which the employee is entitled for, has been retained by the department and used, the employee will be entitled for the interest on the same. The relevant paragraph of the said judgment is as under:-

> "*The jurisprudential basis for grant of interest is the fact that one person's money has been used by somebody else. It is in that sense rent for the usage of money. If the user is compounded by any*

negligence on the part of the person with whom the money is lying it may result in higher rate because then it can also include the component of damages (in the form of interest). In the circumstances, even if there is no negligence on the part of the State it cannot be denied that money which rightly belonged to the petitioner was in the custody of the State and was being used by it."

The case of the petitioner for the grant of interest is squarely covered by the above said judgments and therefore, the petitioner is held entitled for interest on the delayed payment of gratuity, which has been ultimately released to the petitioner on 15.11.2017.

The petitioner is entitled for payment of interest @ 9% per annum from the date it became due i.e. 01.02.2017 till the said amount was released i.e. 15.11.2017. Let the amount of interest be calculated by the respondents for which the petitioner is entitled for, within a period of two months from the receipt of copy of this order and the amount so calculated shall be released to the petitioner, within a period of one month thereafter.

The writ petition is allowed in above terms.

(HARSIMRAN SINGH SETHI)
May 09, 2019 **JUDGE**
harsha

Whether speaking/reasoned: Yes
Whether reportable: Yes